

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent New Democrat Network (“NDN”) is a political organization based in Washington, D.C. Respondent Simon Rosenberg is the founder and president of Respondent NDN. From 1996 through 2003, Respondent NDN was a state general purpose committee and Respondent Rosenberg served as treasurer of NDN.

Under the authority of the Political Reform Act (the “Act”),<sup>1</sup> the Franchise Tax Board (the “FTB”) audited Respondent Committee’s activities during the period January 1, 2001, through December 31, 2002. During this audit period, Respondent Committee received contributions totaling \$85,000 and made expenditures totaling \$85,000. The FTB audit revealed that Respondents failed to timely file a late contribution report and a semi-annual campaign statement.

For the purposes of this stipulation, Respondents’ violations of the Act are stated as follows:

**COUNT 1:** Respondents New Democrat Network and Simon Rosenberg failed to timely disclose a \$10,000 late contribution to the Lieutenant Governor Bustamante 2002 Committee in a late contribution report by the October 26, 2002, due date, in violation of section 84203, subdivisions (a) and (b) of the Government Code.

**COUNT 2:** Respondents New Democrat Network and Simon Rosenberg failed to timely file a semi-annual campaign statement by the January 31, 2003, due date, for the reporting period October 20, 2002, through December 31, 2002, in violation of section 84200, subdivision (a) of the Government Code.

### **SUMMARY OF THE LAW**

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that the contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters will be better informed, and so that improper practices will be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system to accomplish this purpose of disclosure.

Section 82013, subdivision (a) defines a “committee” to include any person or combination of persons who directly or indirectly receive contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly referred to as a “recipient” committee.

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

A “state general purpose committee” includes a recipient committee that supports or opposes candidates or measures voted on in a state election, or in more than one county. (Section 82027.5, subd. (b).)

### **Duty to File Late Contribution Reports**

Under section 84203, subdivisions (a) and (b), when a committee makes or receives a late contribution, the committee must file a late contribution report disclosing the contribution within 24 hours of making or receiving the contribution. Section 82036 defines a “late contribution” as a contribution aggregating \$1,000 or more that is made or received before an election, but after the closing date of the last pre-election statement that is required to be filed.

### **Duty to File Semi-Annual Campaign Statements**

Section 84200, subdivision (a) requires a recipient committee to file two semi-annual campaign statements each year. The first semi-annual campaign statement covers the reporting period January 1st to June 30th, and must be filed by July 31st. The second semi-annual campaign statement covers the reporting period July 1st to December 31st, and must be filed by January 31st of the following year. The period covered by any statement begins on the day after the closing date of the last statement filed, or January 1st, if no previous statement has been filed. (Section 82046, subd. (b).)

### **Duties of a Treasurer**

Under section 81004, subdivision (b), section 84100, and regulation 18427, subdivision (c), it is the duty of a committee’s treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. A committee’s treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sections 83116.5, 91006.)

## **SUMMARY OF THE FACTS**

The FTB conducted an audit of the finances of Respondent Committee for the period January 1, 2001, through December 31, 2002. During this audit period, Respondent Committee received contributions totaling \$85,000 and made expenditures totaling \$85,000. The FTB audit revealed that Respondents failed to timely file a late contribution report disclosing a \$10,000 contribution. The FTB audit further revealed that Respondent also failed to timely file semi-annual campaign statement.

### **COUNT 1**

#### **Failure to Timely File a Late Contribution Report**

Respondents had a duty to file late contribution reports within 24 hours of receiving a contribution of \$1,000 or more during the late contribution reporting period. In this matter, the late contribution reporting period for the November 5, 2002, election was October 20th through November 4th, 2002.

On October 25, 2002, in connection with the November 5, 2002, general election and during the late contribution reporting period, Respondents made a \$10,000 contribution to the Lieutenant Governor Bustamante 2002 Committee. Upon making the \$10,000 contribution, Respondents were required to disclose the contribution in a late contribution report filed within 24 hours, by October 26, 2002. Respondents did not file the late contribution report.

By failing to timely file a late contribution report within 24 hours, Respondents committed a violation of section 84203, subdivisions (a) and (b).

## COUNT 2

### **Failure to Timely File a Semi-Annual Campaign Statement**

Respondents had a duty to file a second semi-annual campaign statement for the period October 20th through December 31st, 2002, by January 31, 2003. As discussed in Count 1, during this reporting period, the FTB audit revealed that Respondent NDN made a \$10,000 contribution to the Lieutenant Governor Bustamante 2002 Committee. This contribution, along with \$10,000 in contributions received by Respondents should have been reported in the post-election semi-annual campaign statement. Respondents did not file the semi-annual campaign statement.

By failing to timely file a semi-annual campaign statement by January 31, 2003, for the reporting period October 20th through December 31st, 2002; Respondents committed a violation of section 84200, subdivision (a).

## **CONCLUSION**

This matter consists of two counts, which carry a maximum possible administrative penalty of Five Thousand Dollars (\$5,000) per violation, for a total of Ten Thousand Dollars (\$10,000).

Respondents' violations were not the result of intentional conduct and Respondent Committee is now terminated. In comparison with overall activity during the audit period, \$85,000 raised and spent, the amount unreported by Respondents represents a relatively low amount. Additionally, during the audit period, Respondents timely filed other required campaign statements. In aggravation, Respondents entered into a stipulated settlement with the Commission in 2004, admitting to two violations of the Act for failure to file pre-election campaign statements in paper and electronic format.

With regard to Count 1, the typical stipulated administrative penalty for failing to timely file late contribution reports in cases that are resolved outside of the Streamlined Late Contribution Enforcement Program has varied depending on the surrounding circumstances. The unreported contribution made by Respondents was not excessive, in the amount of \$10,000. On balance, however, Respondents have a prior enforcement history, thereby justifying an administrative penalty near the middle of the range, in the amount of \$2,000.

With regard to Count 2, the typical stipulated administrative penalty for the violation of failing to timely file a post-election semi-annual campaign statement has been in the low-to-mid end of the applicable penalty range. Here, although Respondents received \$10,000 in contributions during the reporting period that were not disclosed, the only contribution made by Respondents in connection with the election was the \$10,000 contribution that is the subject of Count 1. Thus, a penalty toward the lower end of the range, in the amount of \$1,000, is appropriate for this violation.

Accordingly, the facts of this case justify the imposition of the agreed-upon administrative penalty of \$3,000.